



Paper No. 11

JOHN W. BAILEY
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

MAIL

JUL 05 2001

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2600**

In re Application of:
Katsusuke Shimazaki, et al.
Serial Number: 09/321,795
Filed: May 28, 1999
For: A METHOD FOR RECORDING
AND REPRODUCTION ON A
MAGNETO-OPTICAL RECORDING
MEDIUM

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment for the above-identified application, filed April 27, 2001.

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed March 15, 2000. A Notice of Abandonment was mailed on April 9, 2001.

Petitioner asserts that a proper response was timely filed. In support of the petition, petitioner has submitted, *inter alia*, a copy of the reply filed on July 17, 2000 and a date-stamped post card receipt evidencing receipt of the response on July 17, 2000.


The original correspondence filed was not matched with the file at the time the Notice of Abandonment was mailed and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

Since no fee is required for a petition to withdraw the holding of abandonment, no fee has been charged.

The application file will be forwarded to the examiner for consideration.


James L. Dwyer, Director
Technology Center 2600
Communications